

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

373I0371

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1146** - 02/21/2003

Introduced by: Representatives Cutler, Gillespie, Hennies, Olson (Mel), Peterson (Bill),  
Schafer, and Sebert and Senators Diedrich (Larry), Duniphan, Moore, Olson  
(Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to limit a perpetrator's right to recover for injuries received  
2 in the course of committing a crime and to revise the definition of crime.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-48-1 be amended to read as follows:

5 22-48-1. Terms used in this section mean:

- 6 (1) "Convicted," includes a finding of guilt, whether or not the adjudication of guilt is  
7 stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no  
8 contest plea, a judgment of conviction, an adjudication as a delinquent child, or an  
9 admission to a juvenile delinquency petition;
- 10 (2) "Course of criminal conduct," includes the acts or omissions of the perpetrator in  
11 carrying out the crime of which convicted or of a victim in resisting criminal conduct;
- 12 (3) "Crime," includes an offense named in §§ 22-11-3, 22-11-4, 22-11-6, 22-11-9.1,  
13 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-18-1, 22-18-1.1, 22-19-1,  
14 22-19A-1, 22-19A-2, 22-22-1, 22-22-7, 22-30-1, 22-30A-4, 22-32-1, 22-32-3,



1 22-32-8, chapter 22-33, or an attempt to commit any of these offenses. The term  
2 includes a crime in other states which would have been within this definition if the  
3 crime had been committed in this state;

4 (4) "Perpetrator," any person who has ~~engaged in criminal conduct and includes a person~~  
5 been convicted of a crime as defined in subdivision (3);

6 (5) "Victim," a person who was the object of ~~another's~~ a perpetrator's criminal conduct  
7 and includes a person at the scene of an emergency who gives reasonable assistance  
8 to another person who is exposed to or has suffered grave physical harm.

9 Section 2. That chapter 22-48 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 If the perpetrator claims that the victim used unreasonable force, before any discovery  
12 relating to the claim may be commenced and before the claim may be submitted to the trier of  
13 fact, the court, after hearing, must find, based on clear and convincing evidence, that there is a  
14 reasonable basis to believe that the victim used unreasonable force.